

PROPOSED SUB-AREA POLICY
WISTERIA ISLAND OWNER/APPLICANT REQUESTED POLICY
[As amended by Monroe County Staff](#)

GOAL 107

Monroe County shall regulate land use and development activities of scarified and filled portions of parcels or spoil islands [that have not been documented as an established bird rookery and](#) containing a minority of environmentally sensitive areas, by the enactment of area-specific regulations that allow development to occur subject to limitations and conditions designed to protect natural resources.

OBJECTIVE 107.1: SUB-AREA POLICIES. Monroe County shall regulate Land Use and development activities while coordinating with the other Elements of the Comprehensive Plan through Future Land Use Element Sub-Area Policies Applicable to Specific Geographic Areas

These sub-area policies identify parcels of land that require narrowly-tailored regulation in order to limit maximum development potential to a specified area or extent less than the maximum density and intensity allowed by the geographic area's adopted future land use category. The development parameters established for each sub-area shall be based on:

- (1) an inventory of existing uses and facilities established on the parcel; [and/or](#)
- (2) data and analysis supporting the specific sub-area limitations, provided growth management techniques are employed so services including but not limited to: potable water, wastewater, transportation facilities, parks and recreation, life-safety protection, and hurricane evacuation are provided to support the proposed development; and/ or
- (3) compatibility with surrounding land uses (existing and future) and community character; and/ or
- (4) an evaluation of natural resources and corresponding comprehensive plan policies, as well as state and federal regulations protecting those resources.

Policy 107.1.1 Specific Limitations on the scarified Spoil island, Wisteria Island

The Future Land Use Map designation on the subject property (Wisteria Island, Monroe County Property Appraiser Alternate Key Number 1158089), totaling 21.35 total acres of which 18.15 are upland acres, shall be Mixed Use Commercial ("MC"), further limited by this sub-area policy. For purposes of the upland development allowed by this sub-area policy, Wisteria shall not be deemed to be offshore island under comprehensive plan policies, and shall not require a tier designation because the island shall not be permitted to participate in Rate of Growth Ordinance (ROGO). With the adoption of the sub-area policy, Wisteria Island shall not increase density of the island by competing in the (ROGO) allocation system. Instead, Wisteria Island shall be limited to being a receiver site for residential transferable development rights ("TDRs") and residential transferable ROGO exemptions ("TREs") only, and is not allowed to compete in ROGO for market-rate or affordable allocations. Accordingly, development within the limits established by this Policy shall be deemed development not affecting rate of growth, nor increasing the hurricane evacuation clearance times within the county.

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In addition to meeting the requirements of all applicable goals, objectives, and policies of the Comprehensive Plan, development on Wisteria shall further the intent of Goals 101, 202, 203, 204, 205, [207](#), and 212 by improving near shore water quality, reducing impacts on the marine environment, and enhancing and protecting the quality of Monroe County's upland native habitat by:

- Eliminating the improper storage of vessels over submerged lands by developing a public-access mooring field adjacent to Wisteria Island with the capacity to accommodate no fewer than 100 vessels, subject to obtaining requisite permits from State and Federal marine permitting agencies.
- Providing oversight of the island's upland areas to eliminate illegal dumping and to encourage productive use of the land.
- Authorizing shore-side infrastructure to serve a public-access managed mooring field in adjacent waters in order to eliminate the unmanaged mooring of vessels; and
- Ensuring no increase in the number of residential or transient units allowed county-wide to avoid any effect on hurricane evacuation clearance times. To accomplish this the use of TREs is required for all market-rate permanent residential and transient residential dwellings on Wisteria and those TREs shall be transferred as follows:

a. ~~transfer to Wisteria Island (receiver site) units vested under a development or settlement agreement applicable to a sender site, and extinguishing the corresponding vested development right on the sender site; or~~

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b. ~~transfer to Wisteria Island (receiver site) units purchased within the lower keys subarea and extinguished at the existing location (sender site) thereby moving the units permanently to Wisteria Island~~

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c. Transferring units only from the lower keys sub-area;

d. Not utilizing Section 130-161.1 of the Land Development Code for transferring in permanent units onto the island, since that necessitates affordable housing ROGO units being used on the sender site and because Wisteria Island is not being designated Tier III, so the code is not applicable.

- Encouraging reductions in overall County density and the preservation of Monroe County's native habitat by restricting Wisteria's allocated residential density to two (2) units but permitting the transfer of TDRs from parcels that contain non-scarified native habitat within unincorporated Monroe County (from Tier I, Tier II, or Tier IIIA), within any land use district, to Wisteria for development as defined in the sub-area policy. Land that is the sender site for the TDRs after residential density is transferred to Wisteria shall be dedicated to conservation through a mechanism contemplated by the Comprehensive Plan (*Policy 101.13.2*). Density transfers from Big Pine Key and from No Name Key shall be encouraged, in order to facilitate mitigation under the Habitat Conservation Plan applicable to that area; and
- Requiring a minimum of 20% open space on the island; and
- Reducing residential and commercial impacts on the marine environment through caps on density and intensity; and

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- Controlling the source and spread of invasive exotic species through an island-wide invasive exotic removal and control program; and
- Reducing impacts on near-shore water quality, seagrass beds, and hard bottom communities by encouraging communal docking facilities and prohibiting individual single family docks; and
- Preserving and enhancing valuable on-site and adjacent habitat communities.

Therefore, development on Wisteria [Island and the surrounding waters](#) is hereby limited as follows:

1. DEVELOPMENT PERMITTED AS OF RIGHT OR WITH CONDITIONAL USE APPROVAL, AS NOTED

Mooring field-related development: A public-access mooring field with the capacity to accommodate no fewer than 100 vessels shall be developed in adjacent waters following approval by the Board of Trustees of the Internal Improvement Trust Fund and permitting by appropriate state and/ or federal agencies, with the following associated upland amenities/ facilities allowed on Wisteria Island prior to the issuance of a certificate of completeness for any other upland development (including the Restaurant, Bar, and Pool [as defined in this section #1](#) and any other upland development as defined in [Section #2](#) below, within this Sub-Area Policy):

- a. Fixed and mobile vessel pump-out services. Such services shall be provided to vessels using the public access mooring field;
- b. Docking facilities, to be approved by Planning Director, include: a water taxi dock, a service vessel dock, and a dinghy dock and a maximum of 55 wet slips (20 public short term slips for utilization of the upland development [e.g. restaurant, bar, hotel] , 35 private) with no dry storage, pending agency approval and permitting) and dockside utilities;
- c. Harbor master building;
- d. Ships/ sundry store;
- e. Potable water, Wastewater, and fire prevention and suppression system necessary to service the uses permitted as of right, as well as those permitted by minor conditional use and major conditional use;
- f. Bar, Restaurant (\leq 10,000 sq. ft. permitted by Minor Conditional Use; $>$ 10,000 sq. ft. permitted by Major Conditional Use) & Pool; [and](#)
- g. Water taxi service to Wisteria. Water taxi shall be available to be used to transport fire suppression/emergency medical personnel and equipment to the island when requested.

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The public-access mooring field shall:

- a. Provide for the recreational boating public by reserving 10 percent of the mooring balls to be set aside on a first come-first serve basis for short term mooring;
- b. Not restrict vessel size eliminating the opportunity for all sized vessels to enjoy the use of the mooring field;
- c. Prohibit floating structures
- d. Require all liveaboard vessels to have a functioning marine sanitation device and holding tank that meets current Florida Keys National Marine Sanctuary (FKNMS) federal requirements for the No Discharge Zone.

Deleted: The above uses shall be permitted as of right except as otherwise specifically noted above.¶

2. UPLAND DEVELOPMENT PERMITTED BY MAJOR CONDITIONAL USE: All development of the upland portion of Wisteria (other than the mooring field and amenities/facilities listed above in item #1) shall be subject to major conditional use review and approval. Individual uses shall be further limited to the following densities, and intensities:

- a. Bar & restaurant if > 10,000 sq. ft. permitted by Major Conditional Use
- b. Single-family residential dwellings shall not exceed 35, with all required TDRs and TREs to be transferred to the site; and Affordable/employee residential dwellings shall not exceed 5 units; and
- c. Transient residential units shall not exceed 35, with all required TREs to be transferred to the site, and the total number of bedrooms shall not exceed 85. For the purposes of calculating the number of units to be transferred, the following table demonstrates the bedroom/bath/living space combination and its conversion for transferring TREs:

Number of Bedrooms	Number of Bathrooms	Living area	# of ROGO units this represents
1	1	1	1
1	1.5	1	1
2	1	1	2
2	1.5	1	2
2	2	1	2
2	2.5	1	2
3	1	1	3
3	1.5	1	3
3	2	1	3
3	2.5	1	3
3	3	1	3

- d. Nonresidential floor area shall not exceed 39,500 sq. ft. (including facilities included in #1 and #2 above); and
- e. Commercial recreational uses to serve as support and amenities for a public access mooring field in adjacent waters; and

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f. Accessory uses.

3. Prior to the issuance of a certificate of occupancy for any non-mooring field related upland development, invasive exotic vegetation shall be removed from the island and re-vegetated according to Monroe County Code. Exotic removal may be phased to permit the new plantings and vegetation to adequately adapt, as approved by the County Biologist.
4. Prior to the issuance of a certificate of occupancy for any non-mooring field related upland development (in items #1, and #2, above), a hurricane preparedness plan for the island shall be prepared by the applicant, in compliance with Policy 216.1.8. In addition, the applicant shall cause to be recorded in the official records of Monroe County a covenant or other restriction on privately owned property on the island providing that, in the event of a mandatory evacuation, all occupants of the island shall be evacuated by private means.
5. Prior to the issuance of a certificate of occupancy for any non-mooring field related upland development (in items #1, and #2 above), a fire prevention and suppression plan for the island shall be prepared by the applicant and approved by the Fire Marshall. At a minimum, the plan shall include:

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- i. Requirements to sprinkler buildings to assure better fire protection in the case of fire, in accordance with National Fire Protection Association (NFPA) standards and the Florida Fire Prevention Code; and
- ii. Requirements to provide for the installation of water hydrants for fire suppression purposes; and
- iii. Requirements to include risers and appropriate valves for firefighting purposes in any multi-story buildings as part of the fire protection systems.

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In addition, the applicant shall cause to be recorded in the official records of Monroe County a covenant or other restriction on privately owned property on the island providing that, in the event of a fire or hazard, all occupants of the island shall be protected, at a minimum, by a monitored private fire protection detection and suppression systems per NFPA and Florida Fire Prevention Code.

6. Upland development (including the Restaurant, Bar, and Pool and any other upland development as defined in #2 above) shall not begin until all required State and local approvals and permits have been issued to provide Wisteria potable water service, advanced wastewater service, and fire protection, in sufficient quantity and capacity to accommodate such development. No septic tanks, package treatment plants, or wastewater treatment plants shall be located on Wisteria.
7. To the maximum extent practicable all development shall be designed to avoid and minimize impacts to the mangrove. Any wetland impacts occurring on Wisteria Island shall be offset by

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mitigation on Wisteria Island or in the adjacent waters, in an amount required by Federal and State or other applicable permitting requirements. Only pile-supported accessory structures will be allowed in the wetland area located on the Southern end of the island. Consistency with Objective 204.2, with corresponding policies 204.2.1 through 204. 2.10 of the Comprehensive Plan shall be required.

8. Upon the final approval of docks and dockside utilities identified in Policy 107.1.1.1.b (of which 35 are for use by the owners or occupants of the upland units and 20 are for use by the public, and which shall not constitute or authorize a marina under the Monroe County definition of a marina¹) a perpetual proprietary conservation easement prohibiting the installation of other single family docks on Wisteria Island or on submerged land adjacent to Wisteria Island shall be granted to the Board of Trustees of the Internal Improvement Trust Fund and recorded in the Monroe County public records.
9. Prior to the issuance of a certificate of occupancy for any non-mooring field related upland development in item #2 above), a 2 acre Open Recreation Space for public access shall be reserved and developed with elevated public restroom facilities for daytime use. This set-aside of land shall be available for those persons utilizing the public moorings and for the general public. Public access means: general public is provided convenient access over and across privately owned property subject to such reasonable rules and regulations as the owner of the property may impose governing conduct, dress, noise, consumption of alcoholic beverages, hours that the property shall be open, and pedestrian traffic. Open Space means land set aside in its natural state, free of buildings (except the restrooms) with accessory structures related to pedestrian activity such as walkways, boardwalks, seating, and park like facilities. The Developer may charge a reasonable fee for access to public recreational areas. The property owner may restrict or control access to private facilities that are customarily limited to guests of the transient units and to residential areas customarily reserved for residents. The Developer shall record in the Monroe County public land records a perpetual proprietary public access dedication easement to reserve this portion of the island for public access in perpetuity.
10. All structures on the island shall be designed, permitted, and constructed to meet a wind load of 155 miles per hour (MPH) or greater, as certified by a qualified engineer and shall have appropriate fire separation in accordance with the Florida Building and Fire Prevention codes.
11. Because the island's unique location makes provision of public fire services difficult, all structures shall include "sprinklered" fire protection approved by the Monroe County Fire Marshall.

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¹ MCC Sec. 101-1. *Marina* means a facility for the storage (wet and dry), launching and mooring of boats together with accessory retail and service uses, including restaurants and live-aboards, charter boat and sport diving uses, except where prohibited, but not including docks accessory to a land-based dwelling unit limited to the use of owners or occupants of the dwelling unit.

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12. Parking requirements for the Wisteria Island development shall not be imposed according to the land development code; instead, the Development shall provide provisions for internal pedestrian linkages to water taxis or wet slip moorings. Any designated parking located within the jurisdiction of the City of Key West shall be approved by the applicable jurisdiction with appropriate approvals and permits.
13. Water, Sewer, and Solid Waste services shall be constructed by the owner of Wisteria Island, at owners expense. All approvals and permits by service providers shall be granted prior to application for minor or major conditional use for upland development permitted within this policy.
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The foregoing specific provisions governing the Sub-Area prevail over any conflicting general provisions of Monroe County LDRs and Comprehensive Plan; allocated density limitations in this sub-area policy shall not be considered as allocated density limitations with regard to transferable development rights Sec.130-60(a)(7).